**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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| In Re "A Million Little Pieces Litigation" | : | MDL Docket No. 1771 |
| THIS DOCUMENT RELATES TO ALL ACTIONS | : | |

**DECLARATION OF EVAN J. SMITH, ESQUIRE IN SUPPORT OF "A MILLION LITTLE PIECES" PLAINTIFFS' GROUP'S MOTION FOR CONSOLIDATION AND APPOINTMENT OF CO-INTERIM CLASS COUNSEL**

I, Evan J. Smith, Esquire hereby declares:

1. I am an attorney, duly licensed and admitted to practice law in the State of New York and in this Court. I am a partner in the law firm of Brodsky & Smith, LLC, counsel for Plaintiff Michele Snow in these coordinated proceedings. I have personal knowledge of the facts set forth in this Declaration. If called upon and sworn as a witness, I could and would competently testify to these facts.

2. In April 2006, I, along with co-counsel Larry Drury and Scott Frost, attempted via email and/or telephone, to contact all Plaintiffs' counsel to coordinate a Plaintiffs' leadership structure. We were successful in putting together all Plaintiffs' counsel with the exception of counsel for Plaintiff Rubenstein. Co-Plaintiffs in one action, Taylor and Hauenstein, were part of the instant group until they decided to withdraw. The group did in fact authorize us to speak for Plaintiffs in the group when discussing settlement with Defendants.

3. I, along with Larry Drury's co-Counsel for Plaintiff Vedral, attended and argued before the MDL panel in Kansas City, Kansas on May 25, 2006.

Dockets.Justia.com

4. Larry Drury and I attended numerous and lengthy settlement negotiation sessions either in person in Illinois and/or via telephone over a four month period which culminated in a Memorandum of Understanding on behalf of 10 of the 12 Plaintiffs for a proposed nationwide class settlement.

5. We negotiated and are in the final stages of finalizing the settlement documents and motion for preliminary approval papers of this settlement on behalf of 10 of the 12 Plaintiffs. We also negotiated and continue to negotiate the nature of confirmatory discovery before the final settlement papers are filed.

6. Larry Drury and I have (and continue to) led, updated, conferenced, discussed and sought approval with and from all Plaintiffs in this cohesive Plaintiffs' team before finalizing any Memorandum of Understanding during this four month process.

7. A true and correct copy of the JPML Transfer Order and conditional Transfer Order #1 are attached hereto as Exhibit "A."

8. A true and correct copy of Plaintiff Snow's Complaint is attached hereto as Exhibit "B."

9. A true and correct copy of Plaintiff Vedral's Complaint is attached hereto as Exhibit "C."

10. A true and correct copy of Plaintiff Snow and Vedral's Affidavit of Service and/or waiver of service documents are attached hereto as Exhibit "D."

11. A true and correct copy of Plaintiff Snow's MDL Brief in Support of Transfer is attached hereto as Exhibit "E."

12. A true and correct copy of Plaintiff Vedral's MDL Brief is attached hereto

as Exhibit "F."

13. A true and correct copy of Plaintiff Snow's Request for status conference is attached hereto as Exhibit "G."

14. A true and correct copy of Brodsky & Smith, LLC's firm profile is attached hereto as Exhibit "H."

16. A true and correct copy of Larry D. Drury's firm profile is attached hereto as Exhibit "I."

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: September 22, 2006

*/s/ Evan J. Smith, Esquire (ES3254)*
Evan J. Smith, Esquire (ES3254)